IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

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TUESDAY, THE SEVENTH DAY OF FEBRUARY

TWO THOUSAND AND SIX

P R E S E N T

THE HON'BLE SRI JUSTICE V.ESWARAIAH

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WP.No.2258 OF 2006

Between**:**

Kakaravai Gram Panchayat,

Represented by its Sarpanch, Smt.Bujji … Petitioner

Versus

The District Panchayat Officer, Khammam,

Khammam district & Anr. … Respondents

Counsel for the Petitioners: Mr. M.Sudheer Kumar

Counsel for the Respondents: GP for Panchayat Raj &

Rural Development

O R D E R :

This writ petition is filed to declare the action of the first respondent in not issuing appropriate permission to the petitioner for removal of silt/sand from the check dam of Kakaravai Gram Panchayat, Tirumalaipalem Revenue Mandal, Khammam district in spite of the orders dated 11-3-2004 passed by the second respondent, as illegal, arbitrary and violative of Article 14 of the Constitution of India and consequently

direct the first respondent to grant necessary permission to enable the petitioner to desilt the check dam forthwith.

The petitioner is the Gram Panchayat of Kakaravai village. It is stated that a check dam was constructed in Kakaravai Gram Panchayat area in which silt has been accumulated over a decade. To disilt the same the Petitioner-Gram Panchayat made a representation to the Chairman, Khammam Zilla Parishad on 29-11-2002. Pursuant to the said representation, an enquiry was conducted and a report was submitted to the District Collector, Khammam, who issued orders on 03-12-2002 to take repairs and desilting work in the check dam. The District Level Committee also resolved in its meeting to consider the request of the petitioner after getting report of the Ground Water Department. Considering the request of the petitioner, the Deputy Director of Ground Water Department also permitted to desilt the check dam. The District Level Committee thereupon passed a final resolution on 28-2-2003 permitting the Petitioner-Gram Panchayat to take up desilting work in the check dam.

It is stated that in spite of the same, the District Panchayat Officer has not permitted the petitioner and therefore the petitioner filed WP.No.7052 of 2003, which was disposed of by holding that though the Gram Panchayat has no right to remove the sand, having regard to the complaints the Gram Panchayat received from its constituents rights it can always remove the silt from the check dam to increase storage capacity. Accordingly, the petitioner was permitted to make a representation to the District Collector, who shall, consider and dispose of the same.

Pursuant to the said orders of this court dated 24-10-2003 in WP.No.7052 of 2003,

the District Collector, vide his order dated 11-3-2004 in RC.No.P3/798/99 permitted the Petitioner-Gram Panchayat for removal of silt (sand quality) from the check dams and dispose off the sand after collecting Seigncrage fee @ Rs.30/- per cubic meter and send the amount as collected in the office of D.D. District Panchayat Officer, Khammam. Thereafter, consequential endorsement was issued by the District Panchayat Officer, Khammam dated 30-4-2004 permitting the Petitioner-Gram Panchayat to remove the sand only from the places where it was accumulated without using proclains and the name of the Gram Panchayat only will be mentioned in the way bill and they will transport the sand only as per the sanction and that they will not do anything contrary to the Government rules and requested for sanction of permission for removal accumulated sand from the check dam within the area of Kakaravai Gram Panchayat.

It is stated that in case of any deviation is noticed while removing the sand from the check dam, action will be taken for stopping the same and thereafter the District Panchayat Officer by another endorsement dated 05-8-2004 stopped the desilting operation, as the rainy season was started.

It is stated that the Petitioner-Gram Panchayat filed a representation dated 30-4-2004 before the District Panchahyat Officer, Khammam, seeking permission for desilting the sand but the representation was not being considered and disposed of.

Having regard to the facts and circumstances of the case, I deem it appropriate to direct the petitioner to file another representation in addition to the representation already made on 30-4-2004 within one week from the date of receipt of a copy of the order, before the District Panchayat Officer, Khammam, and on filing such

representation, the first respondent is directed to consider and pass appropriate orders within six weeks thereafter in accordance with law.

With the above direction, the writ petition is disposed of at the admission stage. No costs.

FEBRUARY 7th, 2005. ----------

I s L. V. ESWARAIAH, J.